

SENATOR CHIZEK: Mr. President, colleagues, before us at this time is a...somewhat of a controversial bill, believe it or not, but I believe a well-needed piece of legislation. LB 90, which allows a child under 11 to testify by video tape deposition or closed-circuit TV, but only, and I stress this, only if some very strict conditions are met. As many of you may recall, in 1985 this body passed, by a 49-0 vote, a bill nearly identical to the one now before us and sent it to Governor Kerrey just before we adjourned. For reasons never made completely clear to us, Governor Kerrey vetoed it. Of course, we didn't have the opportunity to override the veto at that time because we had adjourned. In 1986, Senator Scofield reintroduced this legislation, and last February the Judiciary Committee conducted a hearing. During the hearing a very intense discussion took place about whether it was good public policy to allow for a situation where an accused could not directly confront his or her accuser and the committee decided it was for these reasons. First, the Nebraska Supreme Court, in 1986, decided a case which stands for the proposition that when a compelling interest is at stake such as the certainty that a child will be unable to testify at trial in open court, other arrangements may be made to obtain the child's testimony if that testimony is critical to the outcome of the case. In other words, LB 90 is constitutional as it is now written with the committee amendments that I hope we will add. Second, this compelling interest boils down to this. The only time a prosecutor can use this procedure is when, without the child's testimony, the case will be lost. That is, there is no other way and I mean no other way to get the child's testimony to the judge or to the jury. Third, this procedure is not meant to be used for less serious crimes. For instance, we do not intend that prosecutors use this procedure in the run-of-the-mill bad check case, et cetera. Fourth, the procedure mandated in LB 90 with our amendment requires that at all times the child, accused and jury be able to see each other over monitors and that the accused contact with his counsel and the judge not be interfered with. Fifth, LB 90 allows the trial judge to hear expert testimony about the psychological and sociological maturity and understanding of the child before deciding whether there is a compelling reason to allow the procedure outlined in the bill. Finally, it allows the Supreme Court to develop rules so that the intent of this legislation will be carried out uniformly in every court which confronts the situation covered by LB 90. I'm sure Senator Scofield will discuss some of the other very important reasons that we need the legislation. I and the